



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Commissioner of State Tax (Member)
2. Sri. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

AAR No.16/AP/GST/2021 dated:07.07.2021

1	Name and address of the applicant	M/s. Foods and Inns Limited, 323, Aseptic Progressing Plant, Chittoor- Vellore Road, Gollamadugu Village, Pallur Post, Gudipala Mandal, Chittoor District.
2	GSTIN	37AAACF0521C1ZE
3	Date of filing of Form GST ARA-01	16.07.2020
4	Hearing (Virtual)	28.10.2020
5	Represented by	KVJLN Sastry, Advocate
6	Jurisdictional Authority - Central	The Superintendent of Central Tax, Tirupathi Division, Chittoor II Range
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(a) classification of any goods or services or both;

ORDER

(Under sub-section (4) of section 98 of Central Goods and Service Tax Act, 2017 and under sub-section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.
2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Foods and Inns Limited (hereinafter referred to as applicant), registered under the AP Goods & Services Tax Act, 2017.

3. Brief Facts of the case:

3.1 M/s. Foods and Inns Limited is a public limited Company and are engaged in the business of supplying of mango pulp/puree to the dealers situated in India, including merchant export.

3.2 The Manufacturing process of Mango pulp:

The applicant states that selected varieties of fresh mango fruits are procured and transported to the fruit processing plant. The fruits are inspected, graded and washed and sent to the controlled ripening chambers. The fully ripened mango fruits are then washed, blanched, pulped, deseeded, centrifuged, homogenized, and thermally processed. The preparation process includes cutting, de-stoning, refining and packing. The refined pulp is packed in cans, hermetically sealed and retorted. The applicant claims, this process ensures the retention of the natural flavor and aroma of the fruit in the final product. Main varieties of Mango Pulp are Alphonso Mango Pulp, Totapuri Mango Pulp, Kesar Mango Pulp etc. Such extracted Mango Pulp/puree is sold in India, including Merchant Exporters.

3.3. The applicant submits that the product in question is called 'pulp' in some countries and 'puree' in some other countries. Mango Pulp is perfectly suited for conversion into juices, nectars, drinks, jams, fruit cheese and various other kinds of beverages besides its direct consumption in lieu of fresh fruit. It can also be used in puddings, bakery fillings, fruit meals for children and flavors for food industry, and also to make the most delicious ice creams, yoghurt and confectionery.

4. Questions raised before the authority:

- i. Can the Mango Pulp/puree be treated as fresh fruit and exemption be claimed on it? If not whether the mango pulp/puree falls under the heading 20079910 or 0804 or 2008?
- ii. What is the rate of tax payable on outward supplies of Mango fruit pulp/puree under the GST Act?

On Verification of basic information of the applicant, it is observed that the applicant is under Centre jurisdiction, i.e. Superintendent Chittoor-2 Range, Tirupati CGST Division. Accordingly, the application has been forwarded to the jurisdictional officers and a copy marked to the State Tax authorities to offer their remarks as per Sec. 98(1) of CGST /APGST Act 2017.

Remarks were received from Central Tax officers concerned stating that no proceedings were lying pending or passed relating to the applicant on the issue, for which the Advance Ruling was sought by the applicant.

5. Applicant's Interpretation of Law:

5.1. The applicant admits that while exporting the mango pulp/puree the Customs Authority treats it under HSN code 20079910. But, the applicant claims that mango pulp/puree is nothing but fresh fruit, hence they are not liable to pay tax on outward supplies. The above process converting fruit into pulp /puree increases only shelf life of the product. In this regard the applicant relies on the decision reported in 10APSTJ page 219 and submits that the same was also affirmed by Honorable Andhra Pradesh High Court reported in 24APSTJ page 113.

5.2 The Applicant submits that as per the Explanation at the end of the NotificationNo.1/2017-Central Tax(Rate), dated 28.06.2017 which inter alia

provides--"Tariff item", "sub-heading" "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of the notification. Therefore, it is implied by virtue of above explanation, the classification of goods has to be done in accordance with Customs Tariff Act 1975 under which the goods being dealt by the applicant are treated to be falling under HSN Code 20079910. Under the said notification Heading 2007 is provided against Sl.No.39 and no sub-heading/tariff item were provided like in the case of most of the other goods notified there under. The applicant submits that as per the General Rules of interpretation, when the goods are described against the Heading containing 4 digits all the sub-headings and tariff items would be comprehended under such entry. Once the heading/tariff item is recognized, the rate of GST would be governed by the said notification.

5.3 The applicant further submits that according to the notes furnished in Chapter 20 of the Customs Tariff Act, 1975 for the purposes of heading 2007, the expression "obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means. Therefore, even if it is presumed without admitting, if at all if the mango pulp/puree is not treated as fresh fruit then it falls under HSN Code 20079910. The entry 20079910 reads as under.

2007	JAMS, FRUIT JELLIES, MARMALADES, FRUIT OR NUT PUREE AND FRUIT OR NUT PASTES, OBTAINED BY COOKING, WHETHER OR NOT CONTAINING ADDED SUGAR OR OTHER SWEETENING MATTER					
2007 10 00	-Homogenised preparations	Kg	6%	6%	12%	NIL
2007 91 00	-other	Kg	6%	6%	12%	NIL
2007 99	-Citrus Fruit	Kg	6%	6%	12%	NIL
2007 99 10	-other	Kg	6%	6%	12%	NIL
2007 99 20	-Mango	Kg	6%	6%	12%	NIL
2007 99 30	-Guava	Kg	6%	6%	12%	NIL
2007 99 40	-Pineapple	Kg	6%	6%	12%	NIL
2007 99 90	- Apple	Kg	6%	6%	12%	NIL
	-other					

5.4. The applicant states that as per the above entry mango, their product i.e., fruit pulp/puree is obtained after preheating @ 60° to 70° C with no added sugar or

other sweetening matter, hence it falls under 20079910. The applicant further submits that if an item falls under two entries the benefit of tax shall be given to the applicant as held by Honorable Supreme Court of India.

5.5 The applicant further submits that the Commissioner of Central Excise Customs and Services Tax, Tirupathi clarified that the Mango Pulp falls under HSN code 2008 only. The above clarification was issued relying the Judgment delivered by the Honorable CESTAT in the case of Mafco Limited Vs. Commissioner of Central Excise, Pune.

Even if it is presumed without admitting that if at all Mango Pulp falls under HSN code 2008, the rate of tax will be CGST @6% and SGST @6%.

The applicant approached this authority for clarification on the classification of the product, Mango Pulp/puree. Whether it can be treated as fresh fruit and exemption may be claimed. If not whether the mango pulp/puree falls under the heading 20079910 or 0804 or 2008 and what is the rate of tax payable on outward supplies of Mango fruit pulp/puree under the GST Act.

6. Record of Personal Hearing:

The authorised representative of the applicant, Sri KVJLN Sastry, appeared for personal hearing on 28.10.2020 and they reiterated the submission already made in the application.

7. Discussion and Findings:

We have examined the issues raised in the application. The taxability of the goods supplied, as governed under the provisions of respective GST Acts is examined to decide the question involved in the present Ruling.

The applicant approached this authority for clarification on the classification issue of the Mango Pulp/puree, whether it can be treated as fresh fruit and exemption can be claimed on it.

The Central Government has exempted the intra-State supplies of goods by exercising the powers conferred by section 11(1) of the CGST Act 2017 vide Notification No. 2/2017- Central Tax (Rate).

The entry **No.51** of 0804 of the above notification reads as,

0804 "Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh."

The above entry exempts only fresh mangoes from being exigible to tax. Moreover the explanatory notes to **Chapter 08** "*Edible fruit and nuts; peel of citrus fruit or melons*", further adds the following point:

"2.Chilled fruits and nuts are to be classified in the same heading as the corresponding fresh fruits and nuts."

The above explanation further clarifies that even chilled fruits are classified in the same heading as the corresponding fresh fruits and exempted from tax.

In the instant case, the mangoes procured by the applicant are not marketed either in the same state or in frozen/chilled state of the same as fresh fruit. Hence, the entry under 0804 as claimed by the applicant is not applicable.

Now we examine the classification of the goods, 'Mango Pulp/ Puree' as claimed by the applicant, whether it would fall under 20079910 or 2008.

Notes to Chapter 20 "Preparations of vegetables, fruit, nuts or other parts of plants" reads as,

"Point No.2 Headings 2007 and 2008 do not apply to fruit jellies, fruit pastes, sugar-coated almonds or the like in the form of sugar confectionery (heading 1704) or chocolate confectionery (heading 1806)".

It is evident from above that Headings 2007 and 2008 do not apply to the goods under discussion i.e., 'Mango Pulp/Puree' ,which are nothing but fruit pastes. Hence the claim of the applicant is non-applicable in the present context. The tariff rate of Mango Pulp had undergone changes over a period of time.

The recent tariff rate changes brought about by Notification No. 35/2017 Integrated Tax (Rate) dt:30.10.2017, amending notification No. 1/2017-Integrated Tax (Rate), dt: 28.06.2017 added the following entries:

"In the said notification-

(A) **In Schedule I - 5%,-**

(ii) After **S. No. 30** and the entries relating thereto, the following serial number and the entries shall be inserted, namely: -

"30A 0804 Mangoes sliced, dried" ;

In Schedule II-12%,-

(i) In **S. No. 16**, in column (3), for the words and brackets "Dates (soft or hard), figs, pineapples, avocados, guavas, **mangoes** and mangosteens, **dried**", the words and brackets, "Dates (soft or hard), figs, pineapples, avocados, guavas and mangosteens, dried", shall be substituted"

The above amended notification reveals that **"Mangoes sliced, dried"** are taxable @ **5%-** while it is silent on 'Mango Pulp'.

As there is no specific entry under GST tariff meant for this product 'mango pulp/puree', the entry no. 453 of Schedule -III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 is applicable, which is a residuary entry covering goods which are not specified in Schedules I, II, IV, V, VI of the Notification, attracting the tax rate of 18%.

S.No	Chapter/ Heading/ Sub- heading/ Tariff item	Description of Goods
453	Any chapter	Goods which are not specified in Schedule I, II,IV, V or VI

RULING

(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)

Question: Can the Mango Pulp/puree be treated as fresh fruit and exemption be claimed on it? If not whether the mango pulp/puree falls under the heading 20079910 or 0804 or 2008?

Answer: Negative.

Question: What is the rate of tax payable on outward supplies of Mango fruit pulp/puree under the GST Act?

Answer: 'Mango pulp/puree', falls under the entry no. 453 of Schedule-III of Notification No.1/2017-Central Tax (Rate) dt: 28.06.2017 attracting the tax rate of 18%



**Sd/- D.RAMESH
(MEMBER)**

**Sd/- A. SyamSundar
(MEMBER)**

//t.c.f.b.o//

Deputy Commissioner (ST)

DEPUTY COMMISSIONER (ST)

**O/o. Chief Commissioner of State Tax,
Government of A.P., Vijayawada**

To

- 1) M/s. Foods and Inns Limited, 323, Aseptic Progressing Plant, Chittor-Vellore Road, Gollamadugu Village, Pallur Post, Gudipala Mandal, Chittor District -517132.
(By Registered Post).

Copy to

1. The Assistant Commissioner of State Tax, Chittor-I Circle, Chittoor Division.
(By Registered Post)
2. The Superintendent of Central Tax, Chittoor II Range, Tirupati Division.
(By Registered Post)

Copy submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Principal Chief Commissioner of Customs & Central Tax, O/o Principal Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.